

|  |
|--|
| USDC SDNY<br>DOCUMENT<br>ELECTRONICALLY FILED<br>DOC #:<br>DATE FILED: 11/1/2022 |
|--|

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|  |   |
|--|---|
| -----X                                   |   |
| CRISTIAN SANCHEZ, Individually, and On   | : |
| Behalf of All Others Similarly Situated, | : |
|  | : |
| Plaintiff,                               | : |
| -against-                                | : |
|  | : |
| CLASSIC PREP CHILDRENSWEAR, INC.,        | : |
|  | : |
| Defendant.                               | : |
| -----X                                   |   |

VALERIE CAPRONI, United States District Judge:

22-CV-4872 (VEC)

ORDER

WHEREAS on October 25, 2022 (Dkt. 18), the parties notified the Court that they had reached an agreement in principle resolving all issues; and

WHEREAS on October 26, 2022 (Dkt 20), the Court granted Plaintiff's motion for leave to file an amended complaint.

WHEREAS on October 28, 2022, the Court ordered Plaintiff's counsel to show cause why he should not be sanctioned for failure to file the amended complaint by the Court-ordered deadline.

IT IS HEREBY ORDERED that the Court will not impose sanctions against Plaintiff's counsel, who is urged to pay careful attention to Court-ordered deadlines and ask for extension requests when needed. The Court will not be so understanding in the future.

The Court's order requiring Plaintiff to file the amended complaint was deliberate, as the Court may not dismiss the case with prejudice if the Complaint on record fails adequately to allege standing. *See Carter v. HealthPort Techs., LLC*, 822 F.3d 47, 54–55 (2d Cir. 2016) (“[W]here a complaint is dismissed for lack of Article III standing, the dismissal must be without

prejudice, rather than with prejudice” because “without jurisdiction, the district court lacks the power to adjudicate the merits of the case.” *Id.* (internal citations omitted)).

IT IS FURTHER ORDERED THAT all previously scheduled conferences and other deadlines are CANCELLED.

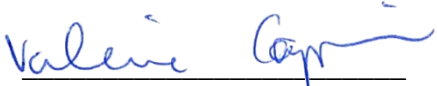
IT IS FURTHER ORDERED that this case is DISMISSED with prejudice and without costs (including attorneys’ fees) to either party. The Clerk of Court is respectfully directed to amend the class caption to delete the language “on behalf of all others similarly situated” after the individual Plaintiff’s name, as this dismissal is operative only as between individual Plaintiff Christian Sanchez and Defendant Classic Prep Childrenswear, Inc. The Clerk of Court is further directed to terminate all open motions and to CLOSE the case.

Within **30 days** of this order, the parties may apply to reopen this case. Any such application must show good cause for holding the case open in light of the parties’ settlement and must be filed within **30 days**. Any request filed after 30 days or without a showing of good cause may be denied solely on that basis.

Additionally, if the parties wish for the Court to retain jurisdiction to enforce their settlement agreement, they must submit **within the same 30-day period**: (1) their settlement agreement to the Court in accordance with Rule 7.A of the Court’s Individual Practices and (2) a request that the Court issue an order expressly retaining jurisdiction to enforce the settlement agreement. *See Hendrickson v. United States*, 791 F.3d 354 (2d Cir. 2015).

**SO ORDERED.**

**Date: November 1, 2022**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**